

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3215

(202) 326-7900

FACSIMILE:
(202) 326-7999

July 31, 2018

Via ECF

The Honorable Sarah Netburn
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *In re Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

Defendant Kingdom of Saudi Arabia (“Saudi Arabia”) respectfully submits this letter concerning the status of its document production in jurisdictional discovery. This Court’s order dated May 24, 2018, ECF No. 4009 (“May 24 Order”), directed that Saudi Arabia’s production be completed by July 31, 2018. The production made today amounts to 3,818 documents (6,674 pages).

Saudi Arabia has made diligent efforts to comply with the Court’s order. Indeed, Saudi Arabia has gone well beyond the required discovery parameters established by the Court.

First, Saudi Arabia has treated as responsive and produced the complete personnel file for Omar Al Bayoumi, regardless of date range. Saudi Arabia has also produced any additional responsive documents found through searches of the offices of the General Authority of Civil Aviation (“GACA”) in Riyadh, Saudi Arabia, and Jeddah, Saudi Arabia, including the offices of Saudi Air Navigation Services in Jeddah, Saudi Arabia, and further including an off-site warehouse where old GACA documents are archived.

Second, Saudi Arabia has treated as responsive and produced the complete personnel files of Fahad Al Thumairy and Khalid Al Sowailem, again regardless of date range. Saudi Arabia has also produced any additional responsive documents from the offices of the Ministry of Islamic Affairs in Riyadh, including an off-site warehouse where old documents of that Ministry are archived.

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

The Honorable Sarah Netburn
July 31, 2018
Page 2

Third, Saudi Arabia has voluntarily searched for and produced documents protected by the Vienna Conventions on Diplomatic and Consular Relations from its Embassy in Washington, D.C., its Consulate in Los Angeles, California, and its Cultural Mission in Fairfax, Virginia.¹

Fourth, Saudi Arabia has produced documents found through a targeted request to the Presidency of State Security for documents collected from other agencies during the relevant period.

Fifth, Saudi Arabia has also made specific targeted requests for certain documents from other agencies outside the scope of the searches set forth in the May 24 Order and has produced responsive documents, including records from Saudi Arabia's Ministry of Interior concerning passport applications for Mr. Al Bayoumi, Mr. Al Thumairy, and Mr. Al Sowailem and the dates on which any of those individuals entered or exited Saudi Arabia.

Saudi Arabia has withheld no documents on grounds of privilege, protection, or immunity,² except for a small number of documents that we have provided to the United States to determine whether they contain information that the United States considers privileged or otherwise protected from discovery. The U.S. Attorney's Office has advised that the United States requires more time to review those documents. Saudi Arabia has withheld those documents pending the completion of that review.

Despite Saudi Arabia's best efforts, a small supplemental production may be necessary. In particular, after the initial searches of GACA's offices, Saudi Arabia made targeted follow-up requests for additional potentially responsive documents based on the results of those searches. Other targeted follow-up requests may yield additional potentially responsive documents. Saudi Arabia does not expect any supplemental production to be substantial, and it will provide that supplemental production as soon as possible. If that process is not complete by August 14, Saudi Arabia will submit another letter to the Court with another status update.

¹ As Saudi Arabia has made clear in its discovery responses, it has limited its search for and review of diplomatic and consular documents by employing specific reasonable search parameters disclosed to the Court and Plaintiffs in advance, and reserves its rights under the Vienna Conventions as to all other documents. *See* ECF No. 4005, at 6.

² Saudi Arabia has, however, treated as nonresponsive documents generated specifically in connection with document or information requests in this litigation, some of which were included in employee personnel files by the relevant agencies.

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

The Honorable Sarah Netburn
July 31, 2018
Page 3

Respectfully submitted,

/s/ Michael K. Kellogg

Michael K. Kellogg
Counsel for the Kingdom of Saudi Arabia

cc: Chambers of the Honorable George B. Daniels (via facsimile)
All MDL Counsel of Record (via ECF)